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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/600,061

06/20/2003

Cesar Z. Lina

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12/06/2006

LEGAL DEPARTMENT INTELLECTUAL PROPERTY
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EXAMINER

HAND, MELANIE JO

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 12/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/600,061

Applicant(s)

LINA ET AL.

Examiner

Melanie J. Hand

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-19 is/are allowed.
- 6) ☒ Claim(s) 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments, see Remarks, filed October 5, 2006, with respect to the rejection of claims 1-19 over Hunt, alone or in combination with other references, have been fully considered and are persuasive. The rejections of claims 1-19 have been withdrawn.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 20 is rejected under 35 U.S.C. 102(b) as being anticipated by McRae (U.S. Patent No. 3,978,855).

With respect to **claim 20**: McRae teaches a tissue treatment apparatus comprising: a nontoxic chemical substance sprayed into or onto a tissue site, the nontoxic chemical substance being adapted to expand from a liquid phase into a solid, porous phase upon application into or onto the tissue site thereby forming a porous polyurethane foam pad having a smooth, partial outer surface and an inner body (Col. 4, lines 53-58); the partial outer surface having pores therein of a first average size and the inner body having pores of a second average size, wherein said second average size is greater than said first average size due to compression applied to cause cells near at least one surface of said foam to collapse either temporarily or permanently, decreasing their pore size and thus creating a microporous skin on at least that particular surface area (i.e. creating a partial outer surface), leaving the cells in areas remote from said skin (those in the inner body) at their original size, which is now larger compared to the pores at

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the skin surface). The said nontoxic chemical substance are capable of, and adapted to, communicate with components of a negative pressure treatment system when the components are located in or on the tissue site. (Col. 6, lines 60-65)

Allowable Subject Matter

Claims 1-19 are allowed.

Reasons for Indicating Allowable Subject Matter

The following is a statement of reasons for the indication of allowable subject matter: A thorough search of the prior art of record did not disclose a reference, alone or in combination with other references, that teaches or fairly suggests all of the limitations of independent claims 1 and 10. The closest prior art of record is the combined teaching of Hunt and McRae. The teachings of Hunt and McRae have been addressed in detail with respect to claims 1-19 in the previous Office action and will not be discussed herein. The combined teaching of Hunt and McRae teaches all of the limitations of independent claims 1 and 10, however, in light of the statement of common ownership of the prior art of Hunt and the instant Application at the time the claimed invention was made, the prior art of Hunt is no longer valid, and thus the combined teachings of Hunt and McRae, Hunt and McRae and Shioya, and Hunt and McRae and Shioya and Coffee are also no longer valid under 35 U.S.C. 103(c).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Monday-Thursday 8:00-5:30, alt. Fridays 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Melanie J Hand
Examiner
Art Unit 3761

MJH

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER
